

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW)
EDMONDSON, in his capacity as ATTORNEY)
GENERAL OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT, in his)
capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF)
OKLAHOMA,)

Plaintiff,

vs.

TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS,)
INC., CAL-MAINE FOODS, INC., CAL-MAINE)
FARMS, INC., CARGILL, INC., CARGILL)
TURKEY PRODUCTION, LLC, GEORGE'S, INC.,)
GEORGE'S FARMS, INC., PETERSON FARMS,)
INC., SIMMONS FOODS, INC., and WILLOW)
BROOK FOODS, INC.,)

Defendants.

Case No. 05-CV-329-GKF-SAJ

ORDER

This matter comes before the Court on the State of Arkansas's Motion for Leave to File an Amicus Brief [Document No. 1403].

Participation as an amicus to brief and argue as a friend of the court is a privilege within the sound discretion of the court, depending upon a finding that the proffered information of amicus is timely, useful, or otherwise necessary to the administration of justice. *United States v. Michigan*, 940 F.2d 143, 165 (6th Cir. 1991).

An amicus brief should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the amicus to intervene and become a party in the present case), or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide. [citations omitted]. Otherwise, leave to file an amicus curiae brief should be denied.

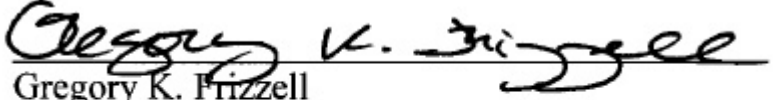
Ryan v. Commodity Futures Trading Commission, 125 F.3d 1062, 1063 (7th Cir. 1997) (Chief Judge Posner, in chambers). Amicus briefs filed by allies of litigants which duplicate the arguments made in the litigants' briefs, in effect merely extending the length of the litigant's brief, are an abuse and should not be allowed. *Id.* The term "amicus curiae" means friend of the court, not friend of a party. *Id.*

Upon review of the briefs submitted by the movant and by the plaintiff, the Court concludes that the proposed amicus has a unique perspective that could help the Court beyond the help that the lawyers for the parties are able to provide.

In the absence of an applicable rule of civil procedure pertaining to amicus briefs, the Court will use Rule 29 of the Federal Rules of Appellate Procedure as a guide to process and timing. To prevent redundancy with defendants' briefs, the State of Arkansas may file its amicus brief no later than seven (7) days after defendants' response briefs are filed, and in no event later than February 15, 2008. Fed. R. App. P. 29(e). Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by the local rule for a response brief. If the Court grants defendants permission to file longer briefs, that extension does not affect the length of an amicus brief. Fed. R. App. P. 29(d).

WHEREFORE, the State of Arkansas's Motion for Leave to File an Amicus Brief
[Document No. 1403] is granted.

IT IS SO ORDERED this 8th day of January 2008.


Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma